

**NOVA SCOTIA UTILITY AND REVIEW BOARD**

**IN THE MATTER OF THE ELECTRICITY ACT**

- and -

**IN THE MATTER OF** a hearing concerning the Sale of Renewable Low-Impact Electricity generated within Nova Scotia by a Retail Seller to a Retail Customer pursuant to the *Electricity Act*

**BEFORE:**



Peter W. Gurnham, Q.C., Chair  
Roland A. Deveau, Q.C., Vice Chair

**ORDER**

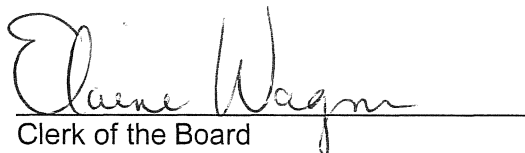
**WHEREAS** on June 10, 2016, the Nova Scotia Utility and Review Board (“Board”) approved the *Board Electricity Retailers Regulations (Nova Scotia)* made pursuant to subsection 5(1B) of the *Electricity Act*, S.N.S. 2004, c.253;

**AND WHEREAS** the Board approved an amendment to the *Board Electricity Retailers Regulations (Nova Scotia)* to add “Appendix A – Application for a Retailer Supplier License”;

**IT IS HEREBY ORDERED** that the *Board Electricity Retailers Regulations (Nova Scotia)* are amended as set out in Schedule “A” to this Order;

**IT IS FURTHER ORDERED** that the amended *Board Electricity Retailers Regulations (Nova Scotia)* shall take effect upon filing with the Registry of Regulations.

**DATED** at Halifax, Nova Scotia, this 10<sup>th</sup> day of November, 2016.



Clerk of the Board

*RM*

## **SCHEDULE "A"**

Board Electricity Retailers Regulations (Nova Scotia)  
enacted under the Electricity Act

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- 1 These Regulations may be cited as the *Board Electricity Retailers Regulations (Nova Scotia)*.

## Definitions

2

2(1) In these Regulations, unless the context indicates otherwise, words and expressions have the same meaning as in the *Electricity Act* and the *Renewable Electricity Regulations (Nova Scotia)* enacted under s. 5 of the Act.

2(2) In these Regulations

“Account Holder”, in relation to a Premises, means the person listed on the account of NS Power for the delivery of electricity consumed at the Premises, regardless of whether the person is a Customer of a Licence Holder, in respect of the Premises.

“Act” means the *Electricity Act*.

“Behind-the-Meter” means the sale of electricity from a Renewable Low-Impact Electricity Generation Facility which is directly connected to a load without using NS Power’s transmission or distribution facilities, including NS Power’s meter installed at the Premises. For greater certainty, the electricity that is sold from a Renewable Low-Impact Electricity Generation Facility to a directly-connected party is Behind-the-Meter, while electricity that is sold from the same facility to another party through the use of NS Power’s transmission or distribution facilities is not Behind-the-Meter.

“Blended Rate” means the amount of money on a ¢/kilowatt-hour basis, inclusive of any fees or charges, to be paid by a Customer to the Retail Supplier, but excluding Distribution Tariff charges, and is calculated as the total charges excluding Distribution Tariff charges to a customer over the Compliance Period divided by the total kilowatt hours of electricity consumed by the Customer over the Compliance Period.

“Board” means the Nova Scotia Utility and Review Board.

“Bundled-supply” means the Account Holder is supplied electricity by NS Power.

“Certification” means the electricity standard approval issued by the Minister to a Renewable Low-Impact Electricity Generation Facility under the *Renewable Electricity Regulations*.

“Code of Conduct” means the Code of Conduct for the sale of Renewable Low-Impact Electricity approved by the Board.

“Compliance Period” means the twenty-four month period commencing each January 1. The initial Compliance Period shall commence on the date that a Licence is approved and shall end December 31 of the following year.

“Compliance Plan” means the forecast of Renewable Low-Impact Electricity sales to Customers, purchases from Renewable Low-Impact Electricity Generators, and generation from Renewable Low-Impact Electricity Generation Facilities owned or operated by the Licence Holder.

“Contract” means an agreement between a Customer and a Licence Holder for the supply of Renewable Low-Impact Electricity to a single or multiple Premises.

“Customer” means an Account Holder, other than an Account Holder served by a Behind-the-Meter installation, who consumes electricity on its Premises that the Account Holder did not generate and

- a) with whom a Licence Holder has entered into a Contract; or
- b) to whom a Licence Holder is Marketing.

“Day” means calendar day, unless otherwise specified.

“Direct Mail Transaction” means a paper-based transaction

- a) initiated by a Licence Holder mailing or transmitting by facsimile documents to a Customer, which mailing or transmitting may be solicited or unsolicited by the Customer, or
- b) initiated by a Customer obtaining the form of Contract using Electronic Communication but does not include the completion of the contracting process through Electronic Communication.

“Disclosure Statement” means the information document in the form approved from time to time by the Board pursuant to s. 46 of these Regulations.

“Door-to-Door Transaction” means a transaction initiated by the attendance of a Salesperson at the Premises of a Customer, whether or not this attendance was solicited or unsolicited by the Customer.

“Electronic Communication” means communication created, recorded, transmitted, or stored in digital form or in other intangible form by electronic, magnetic, or optical means or by any other means that has capabilities for creation, recording, transmission, or storage similar to those means. Electronic Communication is primarily conducted over the internet and includes e-mail correspondence.

“Licence” means a Retail Supplier licence issued by the Board to a person to sell Renewable Low-Impact Electricity.

“Licence Holder” means a person issued a Licence by the Board.

“Marketing” means any activity pertaining to the sale of Renewable Low-Impact Electricity for the purpose of soliciting or inducing a Customer to enter into a Contract with a Retail Supplier, including providing an offer for the Customer’s consideration, and includes in-person communication, direct mail communication, Electronic Communication, or telephone communication with Customers, advertising, and any other means by which a Retail Supplier or its Salespersons interact with a Customer for the purpose of solicitation.

“NS Power” means Nova Scotia Power, Inc.

“Point of Interconnection” has the same meaning as in the Standard Generator Interconnection Procedures and Generator Interconnection Agreement.

“Premises” means the building or portion of a building that is provided with electricity through a single meter.

“Rate” means the amount of money on a ¢/kilowatt-hour basis, plus any fees or charges, to be paid by a Customer.

“Rate Comparison” means the electricity rate comparison information in the form approved from time to time by the Board pursuant to s. 47 of these Regulations that shows the Rate offered by the Retail Supplier, the current rate charged by NS Power at the time of Marketing, and any other information that the Board may require.

“Regulations” means *Board Electricity Retailers Regulations (Nova Scotia)* enacted under the Act.

“Renewable Low-Impact Electricity” has the same meaning as in the *Renewable Electricity Regulations*.

“Renewable Low-Impact Electricity Generation Facility” has the same meaning as in the *Renewable Electricity Regulations*.

“Renewable Low-Impact Electricity Generator” has the same meaning as in the *Renewable Electricity Regulations*.

“Retail Supplier” has the same meaning as under the Act.

“Salesperson” means a person who is employed by or otherwise conducts Marketing on behalf of a Licence Holder, or makes representations to a Customer on behalf of a Licence Holder, for the purpose of effecting sales of Renewable Low-Impact Electricity or entering into a Contract with a Customer.

“Small-Volume Customer” means a Customer that qualifies for the Domestic Service or Small General tariffs.

“Telemarketing” means Marketing conducted by a Licence Holder using the telephone, but excludes the initiation of a Direct Mail Transaction by a Customer using the telephone.

“Top-Up Rate” means the rate charged by NS Power to the Licence Holder as the Energy Charge under the Energy Balancing Services Tariff for non-renewable electricity supplied by NS Power to a Customer.

## Interpretation

### 3

- 3(1) Where a word or phrase is defined in these Regulations or the Act, other parts of speech and grammatical forms of the word or phrase have a corresponding meaning.
- 3(2) Headings are for convenience only and do not affect the interpretation of these Regulations.
- 3(3) Words importing the singular include the plural and vice versa. Words importing a gender include any gender.
- 3(4) Where there is a reference to a number of Days between two events in these Regulations, the Days shall be counted by excluding the Day the first event happens and including the Day the second event happens.
- 3(5) The words “include” or “including” are not used, nor are they to be interpreted, as words of limitation.

### Requirement for Retail Supplier Licence

- 4 In accordance with s. 3D of the Act, any person who acts or purports to act as a Retail Supplier shall hold a valid Licence issued by the Board.

### Application for Retail Supplier Licence

5

- 5(1) An application for a Licence shall be in the form attached (Appendix "A") and shall be accompanied by the following:

- a) a cheque in the required amount of \$7,500 payable to the Board;
- b) an irrevocable letter of credit from a recognized financial institution in the amount of \$200,000 payable to the Board to secure performance and anticipated financial obligations of the proposed Licence Holder, or equivalent financial instrument in the same amount payable to the Board if such substitution is approved by the Board;
- c) if the applicant is a company, proof of registration under the *Corporations Registration Act*, R.S.N.S. 1989, c. 101;
- d) full legal name, address, phone, facsimile, and e-mail contact information of any partner(s) or parent company(s) or organization(s);
- e) a listing of any company or organization principals with applicable titles (proprietor, partner, officer, director or controlling shareholder);
- f) written consents signed by each proprietor, partner, officer, director, and controlling shareholder authorizing the Board to conduct a credit review, in accordance with standard business practices;
- g) written consents signed by each proprietor, partner, officer, director, and controlling shareholder authorizing the Board to consult with all law enforcement agencies and obtain copies of any records pertaining to criminal convictions for which a pardon has not been granted, records of discharge, and records of outstanding criminal charges, such consents to release all such agencies, their members, and employees from any and all actions, claims and demands, loss, or injury which may result from the disclosure of information provided by them;
- h) audited financial statements covering the two immediately preceding fiscal years or, if the applicant has been formed within the preceding twelve months and audited financial statements are not available for at least one year, *pro forma* financial statements signed by the proprietor, partner, officer, director, or controlling shareholder of the applicant may be substituted. If audited financial statements are not available, unaudited financial statements may be accepted at the discretion of the Board;
- i) the Compliance Plan including copies of the contractual arrangements with Renewable Low-Impact Electricity Generators and copies of the Certification required in s. 17. If contractual arrangements have not been executed, then a letter of intent from a Renewable Low-Impact Electricity Generator to enter into a contract for Renewable Low-Impact Electricity supply may be accepted at the discretion of the Board;

- j) a written description of the applicant's business background and experience relating to electricity retailing;
  - k) a written description of the applicant's general plans with respect to electricity retailing; and
  - l) any other information which may be deemed necessary by the Board.
- 5(2) Any variance from the requirements set out in ss. 5(1) shall be formally requested from and approved by the Board prior to an application being submitted.

#### Term of Licence

- 6 A Licence shall have no expiration date but a Licence Holder shall be required to file annual statements as specified in s. 22 to confirm the accuracy of information previously filed with the Board regarding that Licence Holder or provide advice of any changes.

#### Transfer or Assignment of Licence

7

- 7(1) A Licence may not be transferred or assigned without the written consent of the Board.
- 7(2) A Licence Holder shall furnish the Board with any information requested by the Board in support of the proposed transfer or assignment of the Licence.
- 7(3) The fee for the transfer or assignment of a Licence is \$7,500.
- 7(4) The Board may waive the fee set out in ss. 7(3) at its discretion.
- 7(5) A Licence Holder shall inform NS Power of any application to the Board to transfer or assign a Licence.

#### Fees and Costs

8

- 8(1) As set out in ss. 5(1)(a), the fee for a Licence application and first year of operation is \$7,500 with annual filing fees of \$1,500 in each successive year.
- 8(2) Fees are payable to the Board when the application for Licence or annual statement as specified in s. 22 is filed with the Board.
- 8(3) Costs relating to processing, investigations, infractions, inquiries, or enforcement activities which are incurred by the Board and exceed the fees received from a Licence Holder shall be reimbursed to the Board by the Licence Holder involved.

#### Terms and Conditions of Licences

- 9 It shall be a term and condition of a Licence that a Licence Holder shall be subject to and comply with
- a) the market rules, tariffs, and procedures approved by the Board;
  - b) the Act, the Renewable Electricity Regulations, and these Regulations;
  - c) the Code of Conduct approved by the Board pursuant to s. 27;



- d) any applicable directives, rules, or orders of the Board; and
- e) any direction by the Board for payment of any costs reasonably incurred related to hearing complaints or alleged infractions.

### Compliance Period

- 10 In each Compliance Period, a Licence Holder's total purchases or, in the case of a Licence Holder that is also a generator, total generation of Renewable Low-Impact Electricity at the Point of Interconnection that is not sold Behind-the-Meter, or combination of purchases and generation, shall equal or exceed the Licence Holder's total sales of Renewable Low-Impact Electricity plus transmission and distribution losses.
- 11 A Licence Holder shall provide a Compliance Plan to the Board no later than 60 days prior to the start of each Compliance Period that details for the coming Compliance Period
  - a) the sales plan showing the forecasts of the sales of Renewable Low-Impact Electricity, including numbers of Customers differentiated by NS Power's rate classes and forecasts of sales by Customer, but not including any Behind-the-Meter sales;
  - b) forecasts of Renewable Low-Impact Electricity purchases from Renewable Low-Impact Electricity Generators at the Point of Interconnection;
  - c) copies of any contractual arrangements with Renewable Low-Impact Electricity Generators demonstrating that the Licence Holder has secured a sufficient supply to meet its forecasts in b);
  - d) copies of the Certification required in ss. 17(1) from each Renewable Low-Impact Electricity Generator that the Licence Holder contracts with;
  - e) copies of the Certification required in ss. 17(2) from each Renewable Low-Impact Electricity Generation Facility that the Licence Holder owns or operates.
  - f) forecasts of Renewable Low-Impact Electricity generation at the Point of Interconnection if the Licence Holder owns or operates a Renewable Low-Impact Electricity Generation Facility, net of any Behind-the-Meter sales; and
  - g) forecasts of transmission and distribution lossessuch that the requirements set out in s. 10 are met.
- 12 The Board shall review the Licence Holder's Compliance Plan in order to be satisfied that the Licence Holder can reasonably be expected to meet its obligations as set out in s. 10.
- 13 If a Licence Holder has not procured or generated sufficient Renewable Low-Impact Electricity to meet its obligations as set out in s. 10, the Licence Holder shall refund to each of its Customers or former Customers, on a pro-rata basis based on each Customer's consumption of Renewable Low-Impact Electricity, the difference

between the Licence Holder's Blended Rate and 90% of the weighted average Top-Up Rate over the Compliance Period, multiplied by the volume of electricity that the Licence Holder is deficient in meeting its obligations to each Customer as set out in s. 10. For greater certainty, the refund to each Customer is to be calculated as the Licence Holder's Blended Rate less 90% of the weighted average Top-Up Rate over the Compliance Period, multiplied by the net deficit which is the total kilowatt-hour sales less the number of kilowatt-hours that the Licence Holder purchased or generated at the Point of Interconnection net of Behind-the-Meter sales, less transmission and distribution losses, during the Compliance Period, pro-rated by the number of kilowatt-hours used by each Customer during the Compliance Period.

- 14 The Board may require a Licence Holder to provide an update of the Compliance Plan at any time.
- 15 The Board may require a Licence Holder to amend its Compliance Plan or provide additional information if the Compliance Plan is not reasonable in the Board's opinion.
- 16 A Licence Holder that fails to provide a satisfactory
  - a) Compliance Plan as set out in s. 10;
  - b) update to the Compliance Plan as set out in s. 14; or
  - c) amended Compliance Plan as set out in s. 15may have its Licence suspended or cancelled as set out in s. 19.

#### Certification of Renewable Low-Impact Electricity

17

- 17(1) A Licence Holder that purchases Renewable Low-Impact Electricity from a Renewable Low-Impact Electricity Generator shall obtain proof of Certification from the Renewable Low-Impact Electricity Generator.
- 17(2) A Licence Holder that generates Renewable Low-Impact Electricity at a Renewable Low-Impact Electricity Generation Facility owned or operated by the Licence Holder shall obtain Certification.

#### Inquiry Respecting Compliance With Regulations

- 18 The Board may appoint or direct any duly qualified person to make an inquiry and report upon a Licence Holder's compliance with these Regulations, and may also direct by whom, and in what proportion, the costs and expenses incurred in making the inquiry and report shall be paid, and may fix the amount of the costs and expenses.

### **Licence Suspension, Cancellation, and Reinstatement**

#### Suspension or Cancellation

- 19 The Board may cancel or suspend a Licence if it determines that the Licence Holder has contravened the Act, these Regulations, the Code of Conduct, or its Licence.

- 20 A Licence Holder whose Licence is suspended may no longer conduct Marketing to Customers.

### Reinstatement

- 21 A Licence Holder may apply for reinstatement of a Licence that was suspended as set out in s. 19 if it provides any or all of
- a) a plan, satisfactory to the Board, to address and correct contraventions of the Act, these Regulations, the Code of Conduct, or its Licence and prevent future contraventions;
  - b) a Compliance Plan satisfactory to the Board; or
  - c) any other information requested by the Board
- as directed by the Board.

## Reporting

### Annual Licensing Reporting

- 22 A Licence Holder shall provide the following information, as applicable, to the Board no earlier than 60 days and no later than 30 days prior to the anniversary of the Licence:
- a) proof of registration under the *Corporations Registration Act*, R.S.N.S. 1989, c. 101;
  - b) any changes to the full legal name, address, phone, facsimile, and e-mail contact information of any partner(s) or parent company(s) or organization(s), or confirmation that no changes have occurred;
  - c) any changes to the listing of the company or organization principals with applicable titles (proprietor, partner, officer, director, or controlling shareholder) from the previous year's filing, or confirmation that no changes have occurred;
  - d) audited financial statements for the most recently completed fiscal year. If audited financial statements are not available, unaudited financial statements may be provided at the discretion of the Board; and
  - e) any other information which may be requested by the Board.

### Compliance Reporting

#### 23

- 23(1) A Licence Holder shall demonstrate to the Board that the Licence Holder's total purchases or, in the case of a Licence Holder that is also a Renewable Low-Impact Electricity Generator, total generation of Renewable Low-Impact Electricity, or combination of purchases and generation, equals or exceeds the Licence Holder's obligations as set out in s. 10 after taking into account transmission and distribution losses.

- 23(2) Within 30 days following the end of each Compliance Period, a Licence Holder shall provide the following information to the Board for the Compliance Period most recently completed:
- a) total, in kilowatt-hours, of all Renewable Low-Impact Electricity sales to its Customers;
  - b) total number of Customers under Contract, differentiated by NS Power's rate classes;
  - c) total purchases of Renewable Low-Impact Electricity from Renewable Low-Impact Electricity Generators at the Point of Interconnection;
  - d) copies of the written confirmation from the Renewable Low-Impact Electricity Generators documenting quantities of Renewable Low-Impact Electricity purchased by the License Holder;
  - e) total generation of Renewable Low-Impact Electricity from Renewable Low-Impact Electricity Generation Facilities owned or operated by the Licence Holder at the Point of Interconnection;
  - f) transmission and distribution losses; and
  - g) a reconciliation of the net surplus or deficit of Renewable Low-Impact Electricity sales with respect to Renewable Low-Impact Electricity purchases, generation, or combination of purchases and generation, and transmission and distribution losses.
- 23(3) Where a Licence Holder generates and sells Renewable Low-Impact Electricity Behind-the-Meter, the Licence Holder shall not include Behind-the-Meter sales in the required information set out in ss. 23(2).
- 23(4) Where a net deficit exists as set out in ss. 23(2)(g), the Licence Holder shall provide confirmation to the Board that it has refunded its Customers pursuant to s. 13 within 30 days of the end of the Compliance Period.

24 The Board may request additional information from a Licence Holder at any time.

25 The Board, or its delegate, may, upon notification to a Licence Holder, enter a Licence Holder's place of business in order to inspect the accounts of the Licence Holder and the Licence Holder shall furnish such assistance as the Board or its delegate may reasonably require.

### **Transfer Requests**

26 A Licence Holder shall not make a request to NS Power to transfer a Customer to the Licence Holder's supply unless that Customer has agreed to a Contract with the Licence Holder and the Licence Holder has complied with all the provisions of these

Regulations and the Code of Conduct when marketing and communicating with that Customer.

## **Sales and Marketing Practices**

### **Code of Conduct**

#### **27**

- 27(1) The Board shall approve a Code of Conduct that shall apply to the Marketing activities of Licence Holders.
- 27(2) The Code of Conduct may specify
- a) the fair Marketing practices that are to be followed by the Licence Holder or its Salespersons when Marketing Renewable Low-Impact Electricity to Customers;
  - b) requirements for Board approval of Marketing materials and Telemarketing scripts;
  - c) requirements for Salesperson identification;
  - d) requirements for testimonials;
  - e) requirements for Marketing and execution of Contracts;
  - f) training and product knowledge requirements for Licence Holders and their Salespersons; and
  - g) any other requirements the Board deems necessary.
- 27(3) A Licence Holder and its Salespersons shall adhere to the Code of Conduct which has been approved by the Board.

## **Contracts**

### **Contracting Parties**

#### **28**

- 28(1) A Contract for the supply of Renewable Low-Impact Electricity to a Premises may only be made with the Account Holder for that Premises. Where a Licence Holder enters into a Contract to supply more than one Premises, the Contract must be entered into with the Account Holder for each affected Premises.
- 28(2) No Contract is valid unless it is made in accordance with ss. 28(1) herein.

## Governing Laws

- 29 All Contracts shall be governed by the laws of the Province of Nova Scotia and shall contain a statement to that effect.

## Contracting Requirements

- 30 A Contract takes effect and a Licence Holder is bound by its terms when,
- a) for Door-to-Door Transactions or Direct Mail Transactions, a copy of the Contract, signed by the Account Holder, is received by the Licence Holder or its Salesperson;
  - b) for Telemarketing sales, the Account Holder agrees to the terms and conditions of the Contract while on the telephone with the Licence Holder; and
  - c) for Electronic Communication sales, the Account Holder agrees to the terms and conditions of the Contract through Electronic Communication.

## Contract Assignment

- 31 A Licence Holder shall not assign, sell, or otherwise transfer the administration of a Contract with a Customer to another person unless that person holds a Licence issued under s. 3D of the Act.
- 32 Within 60 Days after an assignment, sale, or transfer of the administration of a Contract, the new Licence Holder shall send to any affected Customers a notice of assignment, which includes the new Licence Holder's address for service, its e-mail address, and telephone and facsimile numbers.
- 33 A Licence Holder shall notify the Board of any assignment, sale, or transfer of a Contract within 10 Days after the assignment, sale or transfer.
- 34 A Licence Holder shall notify NS Power prior to any assignment, sale, or transfer of a Contract taking effect.

## Records Retention

### Retention of Information

- 35 A Licence Holder shall keep the following information for as long as the Licence Holder is licensed by the Board plus one additional year:
- a) a list of Salespersons who act or who have acted for the Licence Holder and the dates of their employment or engagement;
  - b) a list of all of the Licence Holder's Customers who have entered into Contracts; and
  - c) a log of cancellation requests, including Premises to which the cancellation applies, the Account Holder's name, the date of the notification of cancellation, and the name and identification number of the representative who accepted the request for cancellation.

- 36 For each Customer that has entered into a Contract with a Licence Holder, the Licence Holder shall retain the following information throughout the duration of the Contract and for a period of one year after completion or termination of the Contract:
- a) for Contracts agreed to in person or as a result of a Door-to-Door Transaction or a Direct Mail Transaction, a copy of the complete Contract bearing the Customer's signature;
  - b) for Contracts agreed to as a result of a Telemarketing Transaction, a copy of the agreed-to Contract and the complete recording of the telephone call between the Customer and the Licence Holder;
  - c) for Contracts agreed to through Electronic Communication, a copy of the agreed-to Contract and the electronic record evidencing the Customer's agreement to the Contract;
  - d) where a Customer cancels a Contract over the telephone, the complete recording of the telephone call between the Customer and the Licence Holder;
  - e) where a Customer cancels a Contract using written or Electronic Communication, written or electronic evidence of the communication from the Customer requesting the cancellation; and
  - f) billing records.
- 37 A Licence Holder shall, on the request of the Board, provide to the Board any of the information required to be kept under s. 35, s. 36, or s. 54.

### **Dispute Resolution Process**

- 38 A Customer, NS Power, or any person may make a complaint to the Licence Holder or the Board in respect of the conduct of the Licence Holder, the conduct of the Licence Holder's Salespersons, the Contract, and any other matter relating to the Act, these Regulations, the Code of Conduct, or the Licence.
- 39
- 39(1) If a complaint under s. 38 is first made to the Licence Holder, the Licence Holder shall promptly and in good faith investigate the complaint and take all appropriate and necessary steps to resolve the complaint.
- 39(2) If the complaint is not resolved to the satisfaction of the complainant, the Licence Holder shall inform the complainant that the complaint may be made to the Board and provide the complainant with the telephone number, mailing address, and e-mail address of the Board.
- 40 Where the Board receives a complaint pursuant to s. 38 the Board may
- a) dismiss the complaint if the Board is satisfied that the complaint is trivial or vexatious, or that there is insufficient or no evidence of a contravention of the Act, these Regulations, the Code of Conduct, or the Licence;
  - b) further investigate the complaint and assist in the resolution of the complaint between the complainant and the Licence Holder; or

c) require a written or oral hearing of the complaint.

41

41(1) Where the Board receives information that a Licence Holder or its Salesperson may have contravened the Act, these Regulations, the Code of Conduct, or its Licence, the Board may initiate a written or oral inquiry into the Licence Holder's or its Salesperson's activities and require the Licence Holder to provide such information or furnish such documents as the Board may request, and produce such officers, directors, employees, and agents to testify as the Board may request.

41(2) The procedure for a written or oral inquiry shall be established by an order of the Board.

42 Following a complaint hearing or inquiry process, the Board shall determine if the Licence Holder or its Salesperson or both have contravened the Act, these Regulations, the Code of Conduct, or its Licence.

43 If the Board determines that the Licence Holder or its Salespersons have contravened the Act, these Regulations, the Code of Conduct, or its Licence, the Board may impose any or all of the following remedies for each contravention

- a) reprimand the Licence Holder;
- b) cancel a Contract, with or without fees, penalties or other charges;
- c) require the Licence Holder to provide a plan, satisfactory to the Board, to address and correct contraventions of the Act, these Regulations, the Code of Conduct, or its Licence, and prevent future contraventions;
- d) instruct the Licence Holder to advise the Customer or any group of Customers affected in a similar manner that they may cancel their Contract without fees, penalties or other charges and be returned to NS Power-supply;
- e) suspend or cancel the Licence as set out in s. 19;
- f) publish the Board's findings in respect of the contravention and the nature of the remedies imposed; and
- g) such further and other remedies as are available to the Board pursuant to applicable laws.

44

44(1) The Board may award costs to or against a Licence Holder or a complainant in connection with the dispute resolution.

44(2) The Board may require a Licence Holder or the complainant, or both, to pay all or a portion of the Board's costs in connection with the dispute resolution.



## Requirements For Small-Volume Customers

### Marketing to Small-Volume Customers

- 45 When Marketing to Small-Volume Customers, a Licence Holder shall
- a) only use the form of Contract which is approved for use by the Board;
  - b) for Door-to-Door Transactions, Direct Mail Transactions, or Electronic Communication transactions, provide a Disclosure Statement and Rate Comparison to the Customer as set out in s. 46 and s. 47 in advance of the Customer agreeing to a Contract and shall afford the Customer sufficient time to review and understand the Disclosure Statement and Rate Comparison prior to the Customer signing or agreeing to a Contract; or
  - c) for Telemarketing Transactions, read to the Customer the Disclosure Statement and Rate Comparison as set out in s. 46 and s. 47 and obtain the Customer's agreement that the Customer understands the Disclosure Statement and Rate Comparison.

### Disclosure Statement

- 46 The Disclosure Statement that is provided to a Small-Volume Customer shall be approved by the Board.

### Rate Comparison

- 47 The Rate Comparison that is provided to a Small-Volume Customer shall be in a form approved by the Board.

### Small-Volume Customer Contract Requirements

- 48 No Contract is valid unless the Small-Volume Customer has signed or agreed to the Disclosure Statement and the Rate Comparison.
- 49 A Licence Holder shall not enter into a Contract with a Small-Volume Customer that has a term in excess of five (5) years.

### 50

- 50(1) A Contract with a Small-Volume Customer shall state that the Contract is not valid unless:
- a) the Customer signs the Disclosure Statement and Rate Comparison or, in the case of a Telemarketing Transaction or Electronic Communication transaction, the Customer confirms that he understands and confirms the Disclosure Statement and Rate Comparison before the Customer enters into the Contract;
  - b) the Customer signs or agrees to the Contract; and
  - c) the Licence Holder provides a signed or agreed-to copy of the Disclosure Statement, Rate Comparison, and Contract to the Customer by mail, facsimile, Electronic Communication, or in person.
- 50(2) A Contract with a Small-Volume Customer shall include a provision that states the Contract is valid only if the Contract has been verified as required in s. 51.

- 50(3) A Contract with a Small-Volume Customer shall include a provision that the Customer may cancel the Contract without cost or penalty if a Contract presently exists for the same Premises, except where the existing Contract is to expire on or before the commencement of the new Contract.
- 50(4) A Contract with a Small-Volume Customer shall include a provision that the Customer may cancel the Contract without penalty or charge if the Retail Supplier was not licensed by the Board or the Licence was suspended at the time the Contract was entered into.

### Contract Verification

- 51 A Contract with a Small-Volume Customer shall be verified as set out in s. 52 and s. 53 in order for the Contract to be valid.

### Who may verify a Contract

- 52 A Contract with a Small-Volume Customer may be verified only by an individual who:
- a) does not receive any remuneration or other compensation or benefit that is determined, directly or indirectly, by reference to the number of Contracts verified or the percentage of Contracts that are verified; and
  - b) has successfully completed such training for persons who verify Contracts as may be required by the Code of Conduct, any order, or any rule issued or made by the Board.

### Verification process

#### 53

- 53(1) A Contract with a Small-Volume Customer shall be verified
- a) only by telephone; and
  - b) only with the Account Holder for the Premises.
- 53(2) The script used by the person verifying the Contract shall be approved by the Board in advance.
- 53(3) The person verifying the Contract shall comply with the Code of Conduct, any order, or any rule issued or made by the Board relating to the verification procedure.
- 53(4) The person verifying the Contract shall make a recording of the telephone call and advise the Customer that the telephone call is being recorded.
- 53(5) A Contract may be verified no earlier than the 10th Day and no later than the 21st Day after the day on which the Contract takes effect in accordance with s. 30.
- 53(6) The person verifying the Contract shall not proceed with the verification process and shall advise the Customer and the Licence Holder of the reason for not proceeding if, at any time during the verification process, the person verifying the Contract
- a) is advised by the Customer of an act or omission that appears to be an unfair practice of the Licence Holder;

- b) is advised that the Customer did not receive a copy of the Contract, the Disclosure Statement, or the Rate Comparison; or
- c) has reasonable grounds for believing that the Licence Holder has committed an unfair practice, whether at the time of soliciting, negotiating or entering into the Contract or after.

### Records Retention

- 54 For each Small-Volume Customer that has entered into a Contract with a Licence Holder, the Licence Holder shall retain the following information, in addition to the information as set out in s. 36, throughout the duration of the Contract and for a period of one year after completion or termination of the Contract:
- a) in respect of a Contract resulting from a Door-to-Door Transaction or a Direct Mail Transaction, copies of the Disclosure Statement and Rate Comparison bearing the Customer's signature; and
  - b) in respect of a Contract resulting from Electronic Communication,
    - i) copies of the confirmed Disclosure Statement and the confirmed Rate Comparison; and
    - ii) the electronic record evidencing the Customer's confirmation of the Disclosure Statement and Rate Comparison.

### Cancellation of Contracts

- 55 A Small-Volume Customer may unconditionally, and without any cancellation fees, penalties or charges, cancel the Contract at any time from the date of entering into the Contract until 30 Days after the date of the first bill for Renewable Low-Impact Electricity under the Contract, provided the Customer is obligated to pay the Licence Holder for all Renewable Low-Impact Electricity consumed until the Customer is transferred to Bundled-supply.
- 56 A Contract with a Small-Volume Customer automatically terminates and the Customer is not subject to any cancellation fees, penalties or charges if the Customer sells or permanently moves from the Premises to which Renewable Low-Impact Electricity is supplied under the Contract.
- 57 A Small-Volume Customer may unconditionally, and without any cancellation fees, penalties or charges, cancel the Contract if the Licence Holder is found by the Board to be in violation of the Act, these Regulations, the Code of Conduct, or its Licence when Marketing to the Customer or in the course of fulfilling its obligations under the Contract.
- 58 A Small-Volume Customer may cancel the Contract at any time in accordance with the cancellation provisions contained within the Contract.
- 59 A Small-Volume Customer may give a notice of cancellation of a Contract in any of the following ways:
- a) by telephone;
  - b) by ordinary or registered mail to the address specified in the Contract;

- c) in person;
- d) by facsimile to the facsimile number specified in the Contract; or
- e) by Electronic Communication to the e-mail address provided in the Contract.

## 60

- 60(1) A notice of cancellation in respect of a Contract with a Small-Volume Customer is deemed to be given to the Licence Holder on the date of
- a) receipt by the Licence Holder of the telephone call from the Small-Volume Customer cancelling the Contract;
  - b) the electronic date stamp of the e-mail from the Small-Volume Customer cancelling the Contract;
  - c) the transmittal of the notice from the Small-Volume Customer cancelling the Contract, if the notice is sent by facsimile;
  - d) the Day that is five Days after the postmark on the letter from the Small-Volume Customer cancelling the Contract, if the notice is sent by ordinary mail; or
  - e) the delivery to the Licence Holder of the notice from the Small-Volume Customer cancelling the Contract, if the notice is delivered in person or sent by registered mail.
- 60(2) The cancellation of a Contract with a Small-Volume Customer becomes effective when NS Power transfers the Customer to Bundled-supply.
- 61 A Licence Holder shall inform NS Power within 2 business days of a Small-Volume Customer canceling their Contract with the Licence Holder.
- 62 If a Small-Volume Customer cancels a Contract, the Licence Holder shall promptly provide written confirmation of the cancellation to the Customer.

## Prohibition on Contract Renewals

## 63

- 63(1) A Contract with a Small-Volume Customer may not be renewed or extended. A new Contract may be entered into between a Small-Volume Customer and a Licence Holder.
- 63(2) A Contract with a Small-Volume Customer may be terminated prior to the expiration of its term with the consent of the parties and a new Contract may be entered into immediately after the termination. All of the provisions of these Regulations, except as provided in s. 55, apply in respect of the new Contract.
- 63(3) If a Contract is terminated early and a new Contract is entered into in accordance with ss. 63(2), the Small-Volume Customer may cancel the new Contract at any time from the date of entering into the new Contract until 30 Days after the date of the first bill for Renewable Low-Impact Electricity under the new Contract. The maximum fee, charge or penalty that a Licence Holder may charge the Small-

Volume Customer is the cancellation fee as determined under the former Contract at the time of its cancellation.

- 63(4) If a Contract is terminated early and a new Contract is entered into in accordance with ss. 63(2), the maximum fee, charge or penalty that a Licence Holder may charge the Small-Volume Customer who cancels the new Contract in accordance with s. 58 after the 30-Day period referred to in ss. 63(3) is the cancellation fee as determined under the new Contract.

#### Notice of Contract Expiry

- 64 No earlier than four (4) months and no later than three (3) months prior to the contract expiry, the Licence Holder shall notify the Small-Volume Customer of the contract expiry date. At this time, the Licence Holder may offer a new Contract to start after expiry of the current Contract.



## Appendix "A"

### Board Electricity Retailers Regulations (Nova Scotia) **APPLICATION FOR A RETAIL SUPPLIER LICENCE**

1. **By:** \_\_\_\_\_  
*Full legal name of the company or organization making this application*

\_\_\_\_\_  
*Business location address in Nova Scotia*

\_\_\_\_\_  
*Mailing address (if different from above)*

#### 2. **Contact Information:**

Contact person: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Email address: \_\_\_\_\_

Web site: \_\_\_\_\_

### 3. Required Documentation and Fee

Regulation 5 (1) of the *Board Electricity Retailers Regulations* requires all of the following documentation be attached to this application unless a variance is formally requested and approved by the Board prior to an application being submitted:

- a) a cheque in the required amount of \$7,500 payable to the Board;
- b) an irrevocable letter of credit from a recognized financial institution in the amount of \$200,000 payable to the Board to secure performance and anticipated financial obligations of the proposed licence holder, or [an] equivalent financial instrument in the same amount payable to the Board if such substitution is approved by the Board;
- c) if the applicant is a company, proof of registration under the *Corporations Registration Act*, R.S.N.S. 1989, c. 101;
- d) full legal name, address, phone, facsimile, and e-mail contact information of any partner(s) or parent company(s) or organization(s);
- e) a listing of any company or organization principals with applicable titles (proprietor, partner, officer, director or controlling shareholder);
- f) written consents signed by each proprietor, partner, officer, director, and controlling shareholder authorizing the Board to conduct a credit review, in accordance with standard business practices;
- g) written consents signed by each proprietor, partner, officer, director, and controlling shareholder authorizing the Board to consult with all law enforcement agencies and obtain copies of any records pertaining to criminal convictions for which a pardon has not been granted, records of discharge, and records of outstanding criminal charges, such consents to release all such agencies, their members, and employees from any and all actions, claims and demands, loss, or injury which may result from the disclosure of information provided by them;
- h) audited financial statements covering the two immediately preceding fiscal years or, if the applicant has been formed within the preceding twelve months and audited financial statements are not available for at least one year, pro forma financial statements signed by the proprietor, partner, officer, director, or controlling shareholder of the applicant may be substituted. If audited financial

statements are not available, unaudited financial statements may be accepted at the discretion of the Board;

- i) the compliance plan including copies of the contractual arrangements with renewable low-impact electricity generators and copies of the certification required in [Section] 17. If contractual arrangements have not been executed, then a letter of intent from a renewable low-impact electricity generator to enter into a contract for renewable low-impact electricity supply may be accepted at the discretion of the Board;
- j) a written description of the applicant's business background and experience relating to electricity retailing;
- k) a written description of the applicant's general plans with respect to electricity retailing;
  - m)
- l) rate comparison the applicant intends to use with the disclosure statement; and
- m) any other information which may be deemed necessary by the Board.

4. The information provided in making this application in accordance with the *Board Electricity Retailers Regulations (Nova Scotia)* is accurate and complete to the best of our knowledge.

Signed in the Province of \_\_\_\_\_ this \_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

\_\_\_\_\_  
Print Title

*Note:*

This Application must:



- 1) provide, in full detail, all information required by the *Board Electricity Retailers Regulations (Nova Scotia)* using attachments as necessary; and
- 2) be signed by two (2) officers of the applying company or organization.

**Any variance from the requirements set out above must be formally requested from, and approved by, the Board prior to an application being submitted.**